

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

Civil Action No.: 1:22-cv-10091

_____	)
JOHN DOE,	)
Plaintiff,	)
	)
v.	)
	)
CITY OF SOMERVILLE,	)
JOSH WAIRI,	)
Defendants.	)
_____	)

**PLAINTIFF JOHN DOE’S AND DEFENDANT CITY OF SOMERVILLE’S  
JOINT MOTION FOR AN ORDER COMPELLING THE PRODUCTION OF  
DOCUMENTS IN DEFENDANT WAIRI’S RELATED CRIMINAL CASE**

**I. INTRODUCTION**

Prior to this litigation, Defendant Josh Wairi was criminally convicted of possessing child pornography. *U.S. v. Wairi*, No. 1:14-cr-10143-WGY, Dk. 91, 143. The underlying events of Wairi’s criminal case and the present civil matter overlap in some respects. Because information in the criminal case is otherwise unavailable to the parties, Plaintiff John Doe and Defendant City of Somerville jointly move to this Court to order the production of certain records in the criminal matter. Counsel for John Doe has sought the records informally, but her requests to obtain them have not been acknowledged. John Doe authorizes the release of any records relating to him to be produced to counsel for the parties subject to a confidentiality stipulation.

**II. RELEVANT FACTS**

Plaintiff John Doe was a student of Defendant Wairi at Defendant Somerville’s Healey School. *Complaint*, Dk. 1, ¶¶ 8, 12, 13. As a student, John attended an overnight fieldtrip to Nature’s

Classroom. *Complaint*, ¶ 18. John Doe alleges that Defendant Wairi attended the field trip, and captured video of some of the male students while they were in the shower. *Complaint*, ¶ 19. Wairi is alleged to have then comingled this footage with his personal child pornography collection. *U.S. v. Wairi*, Dk. 71, at 2.

Law enforcement discovered that Defendant Wairi downloaded and shared child pornography online and arrested him. *U.S. v. Wairi*, Dk. 2-1, at 9. Among his collection of child pornography, authorities recovered a folder labeled “Healey”, which contained files sorted by the individual names of male students. *U.S. v. Wairi*, Dk. 110, at 11. Contained therein were the shower videos. *Id.* Defendant Wairi was convicted of possession of child pornography and acquitted of creating child pornography. *U.S. v. Wairi*, Dk. 91, 143. He is currently incarcerated.

Inquiries with and requests to law enforcement and the United States Attorneys’ Office about the production of relevant records relating to this case have gone unanswered. The parties anticipate that a court order is needed to compel the production of relevant records.

### III. ARGUMENT

#### A. Limited Relief Sought

During the criminal proceeding, the Court entered a protective order preventing the disclosure of the information of minor children. *U.S. v. Wairi*, Dk. 16. The parties do not wish to disturb this order as to any other individual except the named Plaintiff in this case. The parties also do not seek copies of any of any pornographic images. Instead, the parties seek any information or records relating to, or that identify or reference, John Doe. Specifically, the parties ask this Court to issue an Order that the U.S. Attorneys’ Office provide copies of the following records and information to counsel for John Doe and the City:

- Any notes, transcripts, and reports of any and all interviews with John Doe or his parents;

- Any records from the investigation that relate to or reference John Doe;
- The number and a description of the files found in Defendant Wairi's possession bearing John Doe's name.

For these reasons, the parties request that the court issue an order for the information identified by the bullet points above be produced to counsel for John Doe and the City pursuant to a confidentiality stipulation that the materials will be for "attorneys' eyes only" and be used solely for purposes of this litigation.

*Respectfully submitted,*

The Defendant,  
City of Somerville,  
By its attorneys,

/s/ Michael Stefanilo, Jr.

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Dated: April 18, 2023

**CERTIFICATE OF SERVICE**

I hereby certify that this document was filed through the ECF system and will therefore be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent this day to those participants indicated as non-registered participants.

/s/ Michael Stefanilo, Jr.

Michael Stefanilo, Jr., BBO# 684500

Dated: April 18, 2023